

Dennis R. Petersen (ISB #2585)
Neal S. Randall (ISB #5829)
PETERSEN & PARKINSON, P.C.
591 Park Avenue, Suite 202
P.O. Box 1645
Idaho Falls, Idaho 83404-1645
Telephone: (208) 522-5200

U.S. COURTS
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CLERK
BURKE,
IDAHO

Attorney for Debtor

UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

RE:)
)
JESSE SMITH;) CASE NO: 98-04152
GEORGIA SMITH,)
) CHAPTER 7
)
)
)
)
)
_____)

AMENDED MOTION TO AVOID JUDICIAL LIEN

1. Movant, Jesse Smith and Georgia Smith, of 106 East First, Declo, Idaho are the Debtors in the above-identified proceeding.

2. Respondent, Cassia Regional Medical Center, located at 1501 Hiland Avenue, Burley, Idaho, is a creditor of the Debtors.

3. This is a motion pursuant to 11 U.S.C. § 522(f) (1) (A) to avoid a judicial lien upon real property owned by the Debtors, for medical services rendered to the Debtors.

4. The street address of such property is 106 East First, Declo, Idaho 83323, and at all times material hereto was and is owned and held by the Debtors as their personal

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residence. In addition, the Debtors allege that on the date their petition was filed in the above-identified Court of the Fifth District, County of Cassia, that:

- a. Such property had a market value of \$ 17,500.00;
- b. That such property had an outstanding consensual lien thereon in favor of AVCO Financial Services, 1239 Poleline Road, #310 C, Twin Falls, Idaho 83301, in approximate amount of \$ 17,020.00;

5. Pursuant to 11 U.S.C. § 522(b) and (l), and Idaho Code § 55-1003, Debtor claimed such property as exempt in the amount of \$50,000.00, and no objections to such claim having been made, such property is deemed exempt under those code sections.

6. On November 5, 1998, the Fifth Judicial District, State of Idaho, entered judgment in the amount of \$22,657.40, together with interest thereon, in favor of the Respondent and against the Debtors in a civil action entitled Cassia Regional Medical Center v. Jesse Smith, Georgia Smith, Defendants, case no. CV-98-519D, a copy of which is attached hereto and marked as Exhibit "A". On October 8, 1998, in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Cassia, the court entered a Transcript and Abstract of Foreign Judgment. Pursuant to Idaho Code § 10-2220, such abstract of judgment was duly recorded in Cassia, County, Idaho on November 5, 1998, as a judgment lien on such property (Filing No: 25888).

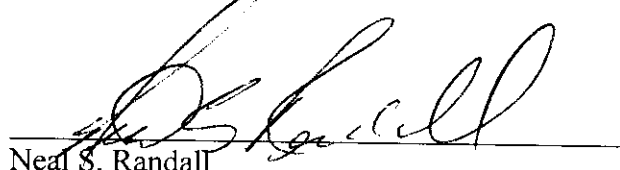
7. The aforesaid judgment was duly listed on the Debtors' schedules as a debt in the above-identified bankruptcy proceeding.

8. The Respondent's aforesaid lien upon the Debtors' property is a judicial lien

within the purview of 11 U.S.C. § 522(f)(1)(A). Said lien impairs Debtors' exemption in the property since the sum of said lien, all other liens on the property, and the amount of the exemption that the Debtors could claim if there were no liens on the property exceeds the value that the Debtors' interest in the property would have in the absence of any liens.

WHEREFORE, Debtor moves this Court for an order avoiding Respondent's lien in its entirety in Debtors' property as described herein, and granting such other further relief as the Court may deem to be just and proper.

DATED this 24 day of November, 1999



Neal S. Randall
Attorney for Debtor

I hereby certify that on the 9th day of November 1999 a true and correct copy of the foregoing **AMENDED MOTION TO AVOID JUDICIAL LIEN** was served upon the following persons of record by the method indicated:

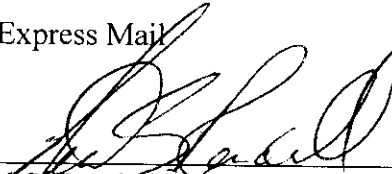
L.D. Fitzgerald, Trustee
P.O. Box 6199
Pocatello, Idaho 83205-6199

Jeff Howe
U.S. Trustee
P.O. Box 110
Boise, Idaho 83701

Cassia Regional Medical Center
1501 Hiland Avenue
Burley, Idaho 83404

William R. Dalling
DALLING & DALLING
P.O. Box 50050
Idaho Falls, Idaho 83405

☒ First class mail, Postage paid
☐ Facsimile # _____
☐ Hand-Delivered
☐ Express Mail



Neal S. Randall

William R. Dalling, Esq.
DALLING & DALLING
P.O. Box 50050
Idaho Falls, Idaho 83405
(208)522-2350

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CASSIA

CASSIA REGIONAL MEDICAL
CENTER,

Plaintiff,

vs.

JESSE SMITH and GEORGIA SMITH,

Defendants.

Case No. CV-98-519D

DEFAULT JUDGMENT

The Defendants, JESSE SMITH and GEORGIA SMITH, having been regularly served with process and having failed to appear and plead to Plaintiff's Complaint on file herein, and the time allowed by law for so pleading having expired and the default of said Defendants having been duly entered, and it appearing that said Defendants are not infants or incompetent persons and an affidavit of non-military service having been filed herein, and it appearing by the affidavit of William R. Dalling, attorney for Plaintiff, that Plaintiff is entitled to a judgment herein.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff has and recovers from the Defendants the sum of \$22657.40, said amount being itemized as follows, to-wit:

DEFAULT JUDGMENT



Principal	15689.82
Interest	1648.08
Attorney's fee	5200.00
Costs	119.50

TOTAL \$22657.40

upon which sum interest shall accrue at the rate provided by law, and upon which judgment execution may issue.

DATED this 7th day of October, 1998.

Monte Carlson
~~Magistrate~~ Judge
District

CERTIFICATE OF SERVICE

I hereby certify that I am the clerk of the above-entitled court, and that on the 8th day of October, 1998, I served a true and correct copy of the foregoing document on the persons listed below by mailing, with the correct postage thereon, or by causing the same to be hand delivered.

Persons Served:

() Hand (☒) Mail

William R. Dalling
DALLING & DALLING
P.O. Box 50050
Idaho Falls, Idaho 83405

() Hand (☒) Mail

JESSE SMITH
GEORGIA SMITH
P.O. Box 176
Declo, ID 83323

Nancy M. Rockwell
By J. M. Loya
Clerk